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In re Application of STEWART et al
U.S. Application No.: 10/540,718
PCT Application No.: PCT/CA2003/002007
Int. Filing Date: 24 December 2003
Priority Date Claimed: 24 December 2002
Attorney Docket No.: 3998-051954
For: METHODS OF DIAGNOSING,
PREVENTING, AND TREATING EARLY
ONSET OF PULMONARY
HYPERTENSION

DECISION

This is in response to applicant's "Renewed Petition 37 CFR 1.181" filed 02 March 2007.

BACKGROUND

On 24 December 2003, applicant filed international application PCT/CA2003/002007, which claimed priority of an earlier United States application filed 24 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 24 June 2005.

On 24 June 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 17 January 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 December 2006, applicant filed a petition under 37 CFR 1.181.

On 27 December 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 24 January 2007, this Office mailed a decision dismissing the 21 December 2006 petition.

On 02 March 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notification of Missing Requirements mailed 17 January 2006 was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, applicant's representative has supplied the required docket record. Such docket record lists responses due to the USPTO on 17 March 2006 for all cases handled by the representative's firm and illustrates the absence of any listing of a response due to a Notification of Missing Requirements for the present application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 December 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 December 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision and to await the submission of the remaining requirements set forth in the Notification of Missing Requirements.

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